

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO.: 3:14-CV-00274**

**LIFESCAN, INC. and LIFESCAN SCOTLAND,  
LTD.,**

**PLAINTIFFS,**

**v.**

**UNISTRIP TECHNOLOGIES, LLC,  
DEFENDANT.**

**COMPLAINT  
(Jury Trial Demanded)**

1. This lawsuit is brought by plaintiffs LifeScan, Inc. and LifeScan Scotland, Ltd. (collectively, “LifeScan”) against defendant UniStrip Technologies, LLC, seeking damages and injunctive relief for the defendant’s infringement of U.S. Patents Nos. 6,241,862 and 7,250,105.

**THE PARTIES**

2. Plaintiff LifeScan, Inc. is a corporation organized under the laws of the State of California, with its principal place of business in Milpitas, California.

3. Plaintiff LifeScan Scotland, Ltd. is a private limited company organized under the laws of the United Kingdom, with its principal place of business in Inverness, Scotland.

4. Upon information and belief, defendant UniStrip Technologies, LLC (“UniStrip Technologies”) is a corporation organized under the laws of the State of North Carolina, with its principal place of business at 301 McCullough Drive, Charlotte, North Carolina.

**JURISDICTION AND VENUE**

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a). This case arises under the patent laws of the United States, 35 U.S.C. § 101 *et seq.*

6. This Court has personal jurisdiction over defendant UniStrip Technologies because UniStrip Technologies does business in the State of North Carolina, has its principal place of business in this State and has had continuous, systematic, and substantial contacts with this State.

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

### **BACKGROUND**

8. The patents at issue in this case involve disposable test strips that persons with diabetes use to monitor their blood glucose levels. This monitoring is done to detect hypoglycemia (low blood glucose) or hyperglycemia (high blood glucose), which can lead to serious complications if untreated. Blood glucose testing typically is done by the individual several times each day. It is one of the most important things that diabetics can do to ensure their health and to prevent long-term complications.

9. On June 5, 2001, the U.S. Patent and Trademark Office issued U.S. Patent No. 6,241,862 (“the ’862 Patent”), entitled “Disposable Test Strips with Integrated Reagent/Blood Separation Layer.” The ’862 patent describes and claims a disposable test strip for use with a test meter that receives a disposable test strip and a sample of blood and performs an electrochemical analysis of the amount of a blood analyte in the sample, as well as a method for forming such a test strip. A copy of the ’862 patent is attached to this Complaint as Exhibit A.

10. On July 31, 2007, the U.S. Patent and Trademark Office issued U.S. Patent No. 7,250,105 (“the ’105 patent”), entitled “Measurement of Substances in Liquids.” The ’105 patent describe and claims a method of measuring the concentration of a substance in a liquid. A copy of the ’105 patent is attached to this Complaint as Exhibit B.

11. LifeScan Scotland, Ltd. is the owner of the '862 and '105 patents.
12. LifeScan, Inc. holds an exclusive license under the '862 and '105 patents, including the right to sue and recover damages for infringement.
13. LifeScan is the leader in the worldwide market for blood glucose monitoring systems. LifeScan distributes OneTouch® Ultra® glucose monitoring systems, which include OneTouch® Ultra® test strips and OneTouch® Ultra® meters.
14. LifeScan's OneTouch Ultra test strips, and use of those test strips with LifeScan's OneTouch Ultra meters, practice one or more claims of the patents-in-suit.
15. LifeScan marks the packaging for its OneTouch Ultra test strips with the numbers of the patents-in-suit in the manner prescribed by 35 U.S.C. § 287(a).
16. UniStrip Technologies sells and offers to sell in the United States, and upon information and belief imports into the United States, disposable blood glucose test strips under the trade name UniStrip1™.
17. UniStrip Technologies has promoted UniStrip1 test strips for use with LifeScan's OneTouch Ultra blood glucose meters and has instructed users to use UniStrip1 test strips with LifeScan's OneTouch Ultra meters.
18. UniStrip Technologies described its UniStrip1 test strip in an April 9, 2014 press release as an "alternative product to the OneTouch® Ultra® test strip brand," "for use in LifeScan's® OneTouch® Ultra®, Ultra®2, UltraMini® and UltraSmart® blood glucose meters."
19. UniStrip Technologies has promoted the UniStrip1 test strip on a website at <http://www.unistrip-tech.com/> as a test strip that works with LifeScan's OneTouch Ultra glucose

meters, and has described the UniStrip1 test strip as the “leading GENERIC alternative” to the OneTouch Ultra test strips.

20. The packaging of the defendant’s UniStrip1 test strip states that the UniStrip1 test strip is designed to be used with LifeScan’s OneTouch Ultra meters:



21. The Instructions for Use in the UniStrip1 package state that UniStrip1 test strips are intended to be used with LifeScan’s OneTouch meters:

The UniStrip1™ Test Strips are only for use with the OneTouch® Ultra®, OneTouch® Ultra® 2, OneTouch® UltraMini® and OneTouch® UltraSmart® meters purchased before October 2012, set at calibration code 49, for measuring glucose (sugar) in whole capillary blood. ....

22. UniStrip Technologies has been aware of the patents-in-suit at all relevant times, and has engaged in its infringing acts with knowledge of those patents.

### **COUNT I**

#### **Infringement of the '862 Patent**

23. Plaintiffs repeat and reallege paragraphs 1–22 as if fully set forth herein.

24. UniStrip Technologies has infringed and continues to infringe one or more claims of the '862 patent, literally or under the doctrine of equivalents, by making or importing, selling, using and offering to sell the UniStrip1 test strip in the United States.

25. In engaging in the acts set forth above, UniStrip Technologies has known of the patents-in-suit and known that the UniStrip1 test strips is especially made and/or adapted for use in infringing the '862 patent.

26. UniStrip Technologies' conduct has harmed LifeScan by preventing it from enjoying the exclusive rights granted by the '862 patent. Unless enjoined, UniStrip's conduct will cause irreparable loss, injury, and damage to LifeScan.

27. On information and belief, UniStrip Technologies' infringement of the '862 patent is willful.

**COUNT II**  
**Infringement of the '105 Patent**

28. Plaintiffs repeat and reallege paragraphs 1–27 as if fully set forth herein.

29. The UniStrip1 test strip is especially designed for practicing the '105 patent in conjunction with LifeScan's OneTouch Ultra meters. It is not a staple article of commerce and has no substantial non-infringing uses.

30. UniStrip Technologies sells and offers to sell the UniStrip1, knowing the same to be especially made or especially adapted for use in infringing the '105 patent.

31. UniStrip Technologies has indirectly infringed and continues to indirectly infringe one or more claims of the '105 patent, literally or under the doctrine of equivalents, by inducing infringement of one or more claims of the '105 patent by users of the UniStrip1 test strip and by contributing to infringement of one of more claims of the '105 patent by such persons.

32. In engaging in the acts set forth above, UniStrip Technologies has known of the '105 patent and known that UniStrip1 test strips are especially made and/or adapted for use in infringing the '105 patent.

33. UniStrip Technologies' conduct has harmed LifeScan by preventing it from enjoying the exclusive rights granted by the '105 patent. Unless enjoined, UniStrip Technologies' conduct will cause irreparable loss, injury, and damage to plaintiffs.

34. On information and belief, UniStrip Technologies' infringement of the '105 patent is willful.

### **PRAYER FOR RELIEF**

This Court should grant LifeScan the following relief against UniStrip Technologies:

- a.) judgment declaring that UniStrip Technologies' manufacture, importation, offer to sell, sale and use of the UniStrip1 test strip infringes, either directly or indirectly, the claims of the '862 and '105 patents;
- b.) an injunction barring UniStrip Technologies and its officers, agents, employees, and all others in concert or participation with them from importing, making, using, selling or offering to sell UniStrip1 test strips and colorable variations thereof, and from otherwise infringing the patents-in-suit;
- c.) damages for UniStrip Technologies' infringement, with interest and trebled, pursuant to 35 U.S.C. § 284;
- d.) an order decreeing that this case is exceptional;
- e.) an order awarding LifeScan its reasonable attorneys' fees and expert fees for bringing and prosecuting this action;

- f.) an order awarding LifeScan the costs and expenses of this action;
- g.) such other relief that the Court deems just and proper; and
- h.) all issues of fact be determined by a jury.

**This the 28<sup>th</sup> day of May, 2014.**

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